

## Agricultural Marketing Service, USDA

## § 966.80

### EXEMPTIONS

#### § 966.70 Procedure.

The committee may adopt, with approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers or handlers.

#### § 966.71 Granting exemptions.

The committee shall issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee, that by reason of a regulation issued pursuant to § 966.52 he will be prevented from handling as large a proportion of his production as the average proportion of production handled during the entire season, or such portion thereof as may be determined by the committee, by all producers in said applicant's immediate production area and that the grade, size, or quality of the applicant's tomatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the producer to handle the amount of tomatoes specified thereon. Such certificate shall be transferred with such tomatoes at time of transportation or sale.

#### § 966.72 Investigation.

The committee shall be permitted at any time to make a thorough investigation of any producer's or handler's claim pertaining to exemptions.

#### § 966.73 Appeal.

If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a

copy of the appeal and a statement of considerations involved in making the final determination.

#### § 966.74 Records.

(a) The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of tomatoes covered by such exemption certificates, a record of the amount of tomatoes handled under exemption certificates, a record of appeals for reconsideration of applications, and such information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

(b) The Secretary shall have the right, to modify, change, alter, or rescind any procedure and any exemptions granted pursuant to §§ 966.70, 966.71, 966.72, 966.73, or any combination thereof.

### REPORTS

#### § 966.80 Reports.

Upon request of the committee, made with approval of the Secretary, each handler shall furnish to the committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following: (1) The quantities of tomatoes received by a handler; (2) the quantities disposed of by him, segregated as to the respective quantities subject to regulation and not subject to regulation; (3) the date of each such disposition and the identification of the carrier transporting such tomatoes; and (4) identification of the inspection certificates and the exemption certificates, if any, pursuant to which the tomatoes were handled, together with the destination of each exempted disposition, and of all tomatoes handled pursuant to §§ 966.53 and 966.54.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein

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which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to prohibition of disclosure of individual handlers identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the tomatoes received and disposed of by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

### MISCELLANEOUS PROVISIONS

#### § 966.81 Compliance.

Except as provided in this subpart, no handler shall handle tomatoes, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall handle tomatoes except in conformity to the provisions of this subpart.

#### § 966.82 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

#### § 966.83 Effective time.

The provisions of this subpart, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

#### § 966.84 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice

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by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operations of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who during a representative period, have been engaged in the production for market of tomatoes: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such tomatoes produced for market.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

#### § 966.85 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as joint trustees for the purpose of liquidating the affairs of the committee of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members pursuant to this section,